



INFORMATION SHEET

G048v13

Educational institutions: introduction to copyright

June 2008

This information sheet is for people who work in educational institutions and who are familiar with the basic copyright principles set out on our website at www.copyright.org.au/introduction. It gives an overview of how the Copyright Act applies to the use of material in educational institutions for educational purposes. There is more information at www.copyright.org.au/education, and in our practical guides *Educational institutions: text, images & music* (www.copyright.org.au/b107.htm), *Educational institutions: digital & AV resources* (www.copyright.org.au/b108.htm), *Educational institutions: copyright compliance resources* (www.copyright.org.au/b116.htm) and *Special case exception: education, libraries, collections* (www.copyright.org.au/b130.htm).

Check our website at www.copyright.org.au/education to make sure this is the most recent version of this information sheet, and for other information for educational institutions such as our training program, Q&As and useful links.

The purpose of this information sheet is to give general introductory information about copyright. If you need to know how the law applies in a particular situation, please get advice from a lawyer.

Special provisions for use of copyright material by educational institutions

There are provisions in the Copyright Act that allow educational institutions to use copyright material for educational purposes without permission from the copyright owner.

The main provisions are in Part VB (copying and communicating text, images and notated music) and Part VA (copying and communicating TV and radio programs). Most of the provisions are only available to “educational institutions” (as defined in the Act) that are covered by a remuneration notice with Copyright Agency Limited (for Part VB) or Screenrights (for Part VA). A remuneration notice is an undertaking to pay for the uses made. Copyright Agency Limited (www.copyright.com.au) and Screenrights (www.screen.org) are non-profit companies that collect copyright fees from educational institutions to distribute to copyright owners.

There are some other provisions apart from those in Parts VA and VB. These include section 200AB (the “special case” or “flexible dealing” exception) and section 28 (playing music and showing films in class).

What is an “educational institution”?

Schools, universities and TAFE colleges are “educational institutions” for the purposes of the Copyright Act. Other organisations that provide training (whether registered as a training organisation or not) can also be an “educational institution”, but in some cases will need to follow procedures before relying on provisions in the Act.

See further *How to qualify for the Statutory Educational licence*, available on the Copyright Agency Limited (CAL) website at www.copyright.com.au/educational_institutions.htm, and “Get a Screenrights licence” on Screenrights’ website at www.screen.org/copyright/Australia/educational-institutions/licence.php

Part VB: copying and communicating text, images and notated music

In Part VB, there is one set of provisions that allows copying of print resources such as books and newspapers (the “hardcopy scheme”), and another that allows copying and communication of digital material (the “electronic use scheme”). “Communication” includes making available online (on an intranet, for example) and email.

In each scheme, the amount of a work that can be used is, in most cases, limited to a “reasonable portion” if the work is available for purchase. Certain information must be included with digital copies and communications.

If a copy is sold, or used for a purpose other than education, it is deemed to be an infringing copy.

Part VA: Copying and communicating material from TV and radio

Part VA allows educational institutions to record from radio and TV for educational purposes, and to copy and communicate those recordings. Unlike Part VB, Part VA allows an entire program to be recorded and copied, even if you can buy that program (on DVD, for example).

Certain information must be displayed on analogue recordings and copies, and with communications of recorded programs.

Part VA only applies to audiovisual material sourced from a broadcast. It does **not** apply to purchased, rented or borrowed DVDs or videos. Nor does it apply to a digital download or podcast, unless it is a program that has been shown as a free-to-air broadcast and has been made available online by the broadcaster (on the ABC website, for example).

If a copy is sold, or used for a purpose other than education, it is deemed to be an infringing copy.

Section 200AB: the “special case” or “flexible dealing” exception

Section 200AB allows an educational institution to use copyright material for educational instruction, in certain cases, where the use is not covered by other specific exceptions in the Copyright Act. It does not apply to a use covered by Part VA of the Copyright Act (recording and communicating TV and radio programs) or Part VB (copying and communicating text and images).

Section 200AB only applies if:

- the circumstances of the use amount to a special case;
- the use does not conflict with a normal exploitation of the material;
- the use does not unreasonably prejudice the legitimate interests of the owner of the copyright; and
- the copying is not made for commercial advantage or profit.

Section 200AB is more complex than other exceptions in the Copyright Act, and you will usually need advice about whether or not it applies in a particular situation.

In some cases, section 200AB can allow the conversion or “format-shifting” of videos to DVDs.

Other provisions

Other provisions in the Copyright Act relevant to educational institutions allow (without payment to copyright owners):

- playing music and screening films in class: section 28 (see our information sheet *Video, DVDs & films: screening in class*);
- copying by hand (e.g. on a whiteboard) “in the course of educational instruction”: section 200(1)(a);
- copying in connection with exams: section 200(1)(b);
- copying “insubstantial portions” (2 pages or 1%): sections 135ZMB and 135ZG; and
- copying by students for their research or study: section 40 (see our information sheet *Research or study*).

Also see our information sheet *Notices on photocopiers and other copying equipment*.

Other educational uses of music licensed by copyright owner organisations

Some institutions are covered by licences from copyright owner organisations that allow them to make uses of music not covered by the special exceptions in the Copyright Act. The organisations are Australasian Performing Right Association (APRA: www.apra.com.au), Australasian Mechanical Copyright Owners Society (AMCOS: www.amcos.com.au), Australian Recording Industry Association (ARIA: www.aria.com.au) and Phonographic Performance Company of Australia (PPCA: www.pcca.com.au)

Primary and secondary schools

All government schools are covered by the following licences:

- Photocopying print music: *AMCOS Schools Photocopying Licence*;
- Recording/copying music and sound recordings: *AMCOS/ARIA Schools Recording Licence*; and
- Performance of music (outside a class): *APRA Schools Performing Licence*.

See further www.apra.com.au/music-users/education_print/schools.asp.

Most other primary and secondary schools are also covered by these three licences: check with your peak organisation.

Universities

Universities are covered by a Music Licence with APRA, AMCOS, ARIA and PPCA. Activities covered by the Music Licence include making of compilation CDs for educational purposes, performances of live and recorded music at certain university events, recording of music at those events, and streaming via the internet. Some music is excluded from the licence, and there are conditions for some of the uses. There is information about the licence on some universities' websites. For more information, contact your university's copyright officer or Universities Australia.

Also, AMCOS offers special educational rates for synchronising of music onto student films or videos: see further www.apra.com.au/music-users/education_print/universities.asp and our information sheet *Music: use in student films & home videos*.

Further information

For further information about copyright, and about our other publications and training program, see our website – www.copyright.org.au.

If you meet our eligibility guidelines, a Copyright Council lawyer may be able to give you free preliminary legal advice about an issue that is not addressed in an information sheet. This service is primarily for professional creators and arts organisations but is also available to staff of educational institutions, libraries and governments. For information about the service, see www.copyright.org.au/advice or our information sheet *Australian Copyright Council: who we are, what we do*.

Information from the Arts Law Centre of Australia may also be of interest to you: see www.artslaw.com.au.

Reproducing this information sheet

You may download and print one copy of this information sheet from our website for your reference. For any other uses, contact the Copyright Council.

The Australian Copyright Council is an independent non-profit organisation. We provide information, advice and training about copyright in Australia. We also produce publications, do research, and make submissions on copyright policy issues.



Australian Government



The Australian Copyright Council has been assisted by the Commonwealth Government through the Australia Council, its arts funding and advisory body.

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